



AppsHosting, Inc.
1820 E. Garry Ave. Suite 218
Santa Ana, CA 92705
(888)641-APPS

Terms of Service

All AppsHosting customers must accept all the terms of this agreement in order to use AppsHosting services. Notwithstanding, by using our services the customer acknowledges that they have read this license agreement and agree to be bound by the terms and conditions contained herein, as well as all acceptable use policies that are referenced. AppsHosting reserves the right to change or modify any of the terms and conditions contained within this agreement. The customer agrees to periodically review the up-to-date terms of service to ensure understanding of and compliance with current policies.

Terms of Payment

Payments can be made electronically or mailed to AppsHosting at the following address:

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A. Non-Recurring Fees. The first invoice for hosting or management services will be generated shortly after the Services Commencement Date, when the installation is completed and the system is available for use. This invoice is due upon receipt and shall include, but is not limited to the following: (i) any non-recurring charges for installation and/or setup; (ii) the first monthly recurring Service Fee; and (iii) fees for any additional options (if any). Fees for any other non-recurring services such as consultation, training or development services will be due in 30 days from the date of invoice.

B. Recurring Fees. The fees for hosting or management services that occur on regular intervals for specified duration is the "Recurring Fee". Beginning on the Services Commencement Date, customer agrees to pay the Recurring Fee in advance on the first day of each billing cycle (the "Due Date"), without invoice. The billing cycle for Recurring Fees will be specified in the first invoice.

C. Late Payments. If the customer is unable to make payment within the specified time frame, they should immediately contact AppsHosting to make alternate payment arrangements. AppsHosting reserves the right to suspend or terminate service if payment has not been received within 30 days from the date of invoice. In the event of any default under the terms of this agreement, Customer agrees to pay all costs of collection, including but not limited to: (1) collection fees; (2) court costs; (3) private process fees, and; (4) attorney's fees.

D. Returned or Rejected Payment. If Customer's payment is returned or rejected for any reason whatsoever, Customer agrees to pay a \$30 fee to AppsHosting, in addition to any fees that may be charged to Customer, by an interested third party.

Cancellation

Cancellation of service is allowed only after the initial contract term has been met. Unless otherwise noted, all hosting contracts are month-to-month, meaning there is no specific minimum contract period. After the initial contract period, customer may cancel the hosting service by giving at two (2) weeks' prior written



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notice to AppsHosting. To cancel the service, please send an email to support@appshosting.com or fax to (949)329-0998. If you do a charge back you will be charged an administration fee of \$100.

User Supplied Content

AppsHosting services may be used for lawful purposes only. Via AppsHosting's services, customer may have access to chat areas, forums, web pages, e-mail, and or other services that enable the customer to send or post materials viewable by others. The customer must not submit publish or display on the network any defamatory, inaccurate, abusive, obscene, infringing, or threatening content. In addition, the customer must not submit, publish, and or display any content that violates any US Federal, State, or local law. The customer is solely responsible for such content made accessible through the network. In addition, the customer may not use AppsHosting services to assist any other person or entity in violating any Federal, State, or local laws.

Copyright Infringement

It is AppsHosting's policy to respond to notices of alleged infringement that comply with the Digital Millennium Copyright Act (<http://www.copyright.gov/legislation/dmca.pdf>) and other applicable intellectual property laws, which may include removing or disabling access to material claimed to be the subject of infringing activity. If we remove or disable access to comply with the Digital Millennium Copyright Act, we will make a good-faith attempt to contact the owner or administrator of each affected site so that they may make a counter notification pursuant to sections 512(g)(2) and (3) of that Act.

Security

AppsHosting consistently strives to safeguard customer and related data by using industry best practices for application and system security. However, there is no guarantee that the information on the Internet is secure. In addition, information on the Internet may never be destroyed. The customer may not use AppsHosting's Network in an attempt to circumvent user authentication or security of any host, network, or account. This includes, but is not limited to, accessing data not intended for the customer, logging into a server or account the customer is not expressly authorized to access, password cracking, probing the security of other networks in search of weakness, or violation of any other organization's security policy.

In addition, the customer may not attempt to interfere or deny service to any user, host, or network. This includes, but is not limited to, flooding, mail bombing, or other deliberate attempts to overload or crash a host or network. AppsHosting will cooperate fully with investigations of violations of systems or network security, including cooperating with law enforcement authorities in the investigation of suspected criminal violations. Users who violate system or network security may incur criminal or civil liability.

Service Level Agreement

AppsHosting is committed to providing the highly available and optimally performing application system environment for customers. AppsHosting guarantees network uptime of 99.9%. To achieve guaranteed uptime, the network will continuously be monitored and available to users except during the times of planned maintenance.



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AppsHosting guarantees proper functioning of all hardware components and will replace any failed component at no charge to the customer. Hardware replacement is guaranteed to be complete within 4 hours from the time the problem is identified. The hardware replacement timer begins once the problem is reported to AppsHosting and the cause of the problem is determined to be faulty hardware.

AppsHosting measures uptime and other availability indicators constantly and will be made available to customers on a regular basis. The internal process performance are also measured and reported by the AppsHosting to the customer. This service includes incident reporting and root cause analysis. For specifics on the penalty for the down time, please refer to the hosting proposal or contract.

There may be times when an unforeseen disruption of service may occur due to a number of reasons. AppsHosting maintains procedures to recover from such outage scenarios, and will make an effort to bring up services with minimal disruption. Any customer claims must be submitted to AppsHosting in writing within a period of 48 hours from the time of the outage, otherwise the customer agrees to forfeit any claims related to a service outage.

Out of Scope Work

Any work done at the request of client not covered by existing support agreement is billed at standard AppsHosting rate of \$50 per hour. AppsHosting personnel will make the best effort to provide a quote before performing the out-of-scope work, but in cases where the quote was not provided due to the circumstances, the customer will still be responsible to pay for the out-of-scope work performed.

Illegal Use

AppsHosting servers may be used for lawful purposes only. Transmission, storage, or distribution of any information, data, or material in violation of any applicable law or regulation, or that may directly facilitate the violation of any particular law or regulation is prohibited. This includes, but is not limited to: copyrighted material; trademarks; trade secrets or other intellectual property rights used without proper authorization; material that is obscene, defamatory, constitutes an illegal threat, or violates export control laws. Examples of unacceptable content or links include: pirated software, hacker programs or archives, Warez sites, MP3, and IRC bots.

Adult Content

Due to the special system and network requirements of adult-oriented sites, pornography and hard core sex-related sites are prohibited. This includes sites that may infer sexual content or provide links to adult content elsewhere. This is also true for sites that promote any illegal activity or content that may be damaging to our servers or any other server on the Internet, or provide links to such sites.

Security

Violations of system or network security are prohibited and may result in criminal and civil liability. Examples include but are not limited to the following: unauthorized access, use, probing, or scanning of systems security or authentication measures, data, or traffic; interference with service to any user, host, or network including, without limitation, mail bombing, flooding, deliberate attempts to overload a system, broadcast attacks; forging of any TCP-IP packet header or any part of the header information in an email or a newsgroup posting.



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Server Resources*

Any service that uses a high amount of server resources (such as, but not limited to, CPU time, memory usage, database connections and network resources) will be given the option to either pay additional fees (which will depend on the resources required), reduce the resources used to an acceptable level, or upgrade its service to a Dedicated Server plan. AppsHosting shall be the sole decision maker of what is considered to be a high server usage level. Accounts exceeding bandwidth limits as per hosting plan will result in account being shut down.

UCE (Unsolicited Commerce Email) - SPAM

Spamming, the sending of unsolicited mass email from or through any AppsHosting server or using an email address that is maintained on any AppsHosting machine is STRICTLY prohibited. AppsHosting will be the sole decision maker as to what constitutes a violation of this provision. Customers are also in violation of this provision if they engage in spamming using the service of another ISP or IPP, but reference in the spam a web site hosted on a AppsHosting server, or if they sell or distribute software on their web site that facilitates spamming. Violators will face immediate suspension.

Server Abuse

Any attempts to undermine or cause harm to an AppsHosting server or customer are strictly prohibited. Any such attempts will be reported to the appropriate authorities, and will be punishable to the fullest extent of the law.

Software Distribution*

AppsHosting shared web hosting accounts are not configured for the purposes of distributing software and/or multimedia products. If you wish to distribute software and/or multimedia files, please contact Sales to make special arrangements.

Multimedia Files*

Multimedia files are defined as any graphics, audio, and video files. AppsHosting shared web hosting accounts are not to be used for the purposes of distributing and storing unusual amounts of multimedia files. Any web site whose disk space usage for storing multimedia files exceeds 60% of its total usage, in terms of total size or number of files, will be considered to be using an unusual amount of multimedia files.

Other

Any content which generates complaints directed by others to us directly is prohibited. Any content containing a persons or organizations sensitive personal data, including but not limited to credit card numbers, social security numbers, and driver's license numbers is prohibited. Any content related to terrorist groups is prohibited.

Privacy of Data

Please refer to our privacy policy, which is posted at the following website:

<http://www.appshosting.com/privacy>

Notice regarding High-Availability



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The following information pertains to customers that require a high availability environment. A high-availability environment is defined as an environment that is comprised of redundant service centers with the intention of being able to fail over application services to a secondary service center in the event of an outage in the primary service center.

For those customers that may be interested, a high-availability environment is available through AppsHosting, at an additional cost.

Warranty

"**Critical function**" means a function of the software that enables an essential business process. "**Critical defect**" is a change in the behavior of the software that creates extreme difficulty in the performance of a critical function. Provider represents and warrants that the Hardware and Software shall operate free from critical defects for the contract term and shall substantially operate as described in the applicable program documentation.

Client shall notify Provider promptly of any infringement claim of which it has knowledge, and shall cooperate with Provider in the defense of such claim by supplying information, all at Provider's expense. If an infringement claim involves a non-critical function of the software, Provider may remove or disable the offending feature. If, in a suit arising from such claim, the continued use of a critical function of the software is enjoined or threatened to be enjoined by any court of competent jurisdiction, Provider shall, at its expense: attempt to procure for Licensee, at commercially reasonable terms, the right to continue using the Products, or upon failing to procure such right; modify or replace the Products or components thereof with non-infringing Products.

The paragraphs of this section titled "**Warranty**" represents our entire warranty. To the maximum extent permitted by applicable law, these warranties are exclusive and take the place of all other express or implied warranties or conditions including warranties or conditions of merchantability, satisfactory quality, and fitness for a particular purpose. However, nothing in this Agreement shall affect any statutory rights either party may have that cannot be waived or limited by contract.

Disclaimer of Other Warranty and Limit of Liability

To the maximum extent permitted by applicable law, our itemized warranties are exclusive and take the place of all other express or implied warranties or conditions including warranties or conditions of merchantability, satisfactory quality, and fitness for a particular purpose.

The services and products to be delivered under this offer will involve the efforts and expertise of both parties, and responsibility for error will be difficult or impossible to ascertain. To the maximum extent permitted by applicable law, Client shall release Provider from all liability related to or arising from data, information or reports produced with AppsHosting, even when errors and omissions are made on AppsHosting's part and even if AppsHosting has been apprised of the possibility of such damages. Neither



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party shall be liable to the other for any indirect, incidental, special, punitive, or consequential damages, or any loss of profits, revenue, data, or data use. Client and Provider expressly agree that under no circumstances shall either party be obligated to pay an attorney's fee, prejudgment interest or the cost of legal action to the other party. Our cumulative maximum liability, and your exclusive remedy, for any and all claims relating to the services provided by AppsHosting, in contract, tort, or otherwise, will be strictly limited to a refund of fees that you paid during any single one-hundred eighty (180) day period that the programs did not perform reasonably according to warranty, history, design and documentation.

Acceptance

By accepting AppsHosting Services, CLIENT agrees to all of the terms and conditions contained herein.

Please note that asterisked items (*) are not applicable to Dedicated Hosting customers.

CLIENT

By: _____
Signature

Print Name:

Title:

Date Signed: